

31A-4-108 Power to hold property in other than own name.

- (1) An insurer shall hold all investments and deposits of its funds in its own name except:
- (a) securities:
 - (i) kept under a custodial agreement or trust arrangement with one of the following approved by the commissioner:
 - (A) a bank;
 - (B) a securities firm's trust company;
 - (C) a trust company; or
 - (D) a brokerage firm; and
 - (ii) that may be issued in the name of a nominee of the:
 - (A) bank;
 - (B) securities firm's trust company;
 - (C) trust company; or
 - (D) brokerage firm; and
 - (b) securities that may be acquired and held in bearer form.
- (2) An insurer shall take steps which the commissioner reasonably prescribes by rule or order to:
- (a) safeguard the securities described in Subsection (1); and
 - (b) ensure that the securities are not loaned to other insurers, affiliated or not, to mislead the commissioner about the true financial condition of either the lending or the borrowing insurer.
- (3)
- (a) If the department finds that an insurer is in violation of this section, the insurer is subject to:
 - (i) a fine;
 - (ii) suspension of a license;
 - (iii) revocation of a license;
 - (iv) another penalty permitted by Section 31A-2-308; or
 - (v) any combination of Subsections (3)(a)(i) through (iv).
 - (b) An insurer may not provide for the custody of the insurer's securities except as granted by this section.
 - (c) Securities of an insurer kept under a custodial agreement or trust arrangement in violation of this section shall be disregarded in:
 - (i) determining the financial condition of the insurer; or
 - (ii) reporting the financial condition of the insurer.

Amended by Chapter 176, 2006 General Session